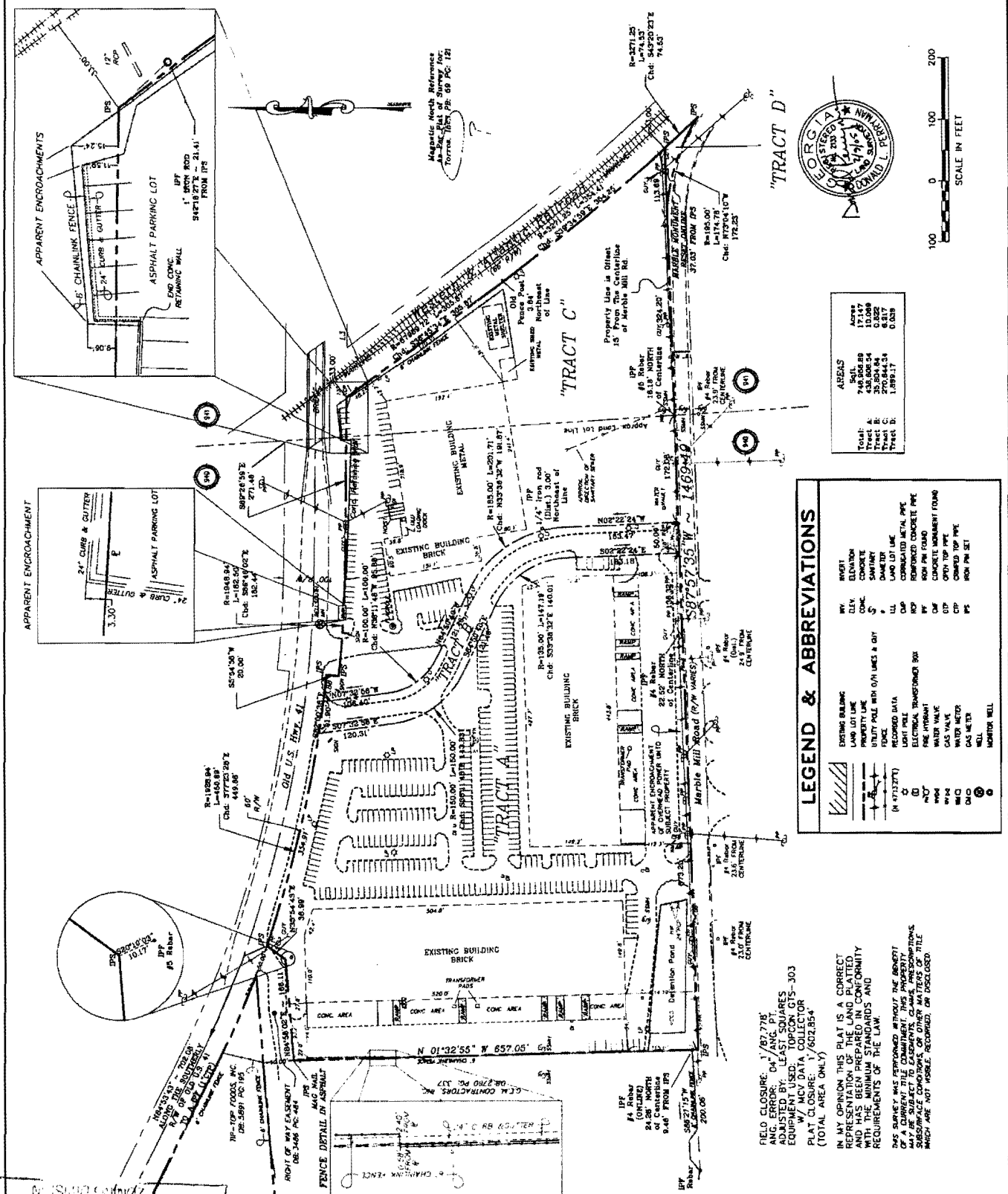


PLAT OF SURVEY FOR:  
**ROBERT M. TORRES, SR., TORCO, INC., & KENNESAW MOUNTAIN BUSINESS PARK, L.L.C.**

**SURVEY PLUS, INC.**  
1425 SOUTH COMB DR., L.L.C.  
DALLAS, TEXAS 75243-3808  
PHONE: (214) 444-1144  
FAX: (214) 444-1145  
WWW.SURVEYPLUS.COM

DATE: 10/14/15  
DRAWN BY: J. B. TORRES  
CHECKED BY: J. B. TORRES  
SCALE: AS SHOWN

#38879



AREAS	
Acres	
Tract A	430.8084
Tract B	35.88434
Tract C	1.09517
<b>Total</b>	<b>467.78291</b>

### LEGEND & ABBREVIATIONS

	EXISTING BUILDING		ELEVATION
	LAND LOT LINE		CONCRETE
	UTILITY POLE WITH O/N LINES & OFF		DEWATERING
	RECORDED DATA		LAND LOT LINE
	LIGHT POLE		COMPACTED METAL PIPE
	ELECTRICAL TRANSFORMER BOX		REINFORCED CONCRETE PIPE
	FIRE HYDRANT		HIGH P/W FOUND
	WATER VALVE		CONCRETE MONUMENT FOUND
	GAS VALVE		CRD TOP PIPE
	WATER METER		CRD PIPE SET
	GAS METER		METER WELL

FIELD CLOSURE: 1/87.728'  
ANG. ERROR: 04" ANG. 728'  
ADJUSTED BY: LEAST SQUARES  
EQUIPMENT USED: TOPCON GT-303  
PLAT CLOSURE: 1/82.154'  
(TOTAL AREA ONLY)

IN MY OPINION THIS PLAT IS A CORRECT AND ACCURATE REPRESENTATION OF THE PROPERTY AND HAS BEEN PREPARED IN ACCORDANCE WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF THE LAW.

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, CLAIMS, ENCUMBRANCES, OR OTHER INTERESTS NOT SHOWN ON THIS PLAT WHICH ARE NOT WISELY RECORDED OR DISCLOSED.

OCT - 1 2015  
 TORCO, INC.  
 1777 ASH CIRCLE  
 DALLAS, TEXAS 75243

**APPLICANT:** Marc Simmons

**PETITION NO:** Z-103

**PHONE#:** (615) 708-5685 **EMAIL:** themarcsimmons@gmail.com

**HEARING DATE (PC):** 12-01-15

**REPRESENTATIVE:** Joel L. Larkin

**HEARING DATE (BOC):** 12-15-15

**PHONE#:** (770) 422-7016 **EMAIL:** jlarkin@slhb-law.com

**PRESENT ZONING** HI

**TITLEHOLDER:** Kennesaw Mountain Business Park, LLC

**PROPOSED ZONING:** HI with Stipulations

**PROPERTY LOCATION:** South side of Old 41 Highway, west

side of Torras Drive, north side of Marble Mill Road

(1349 Old 41 Highway NW)

**PROPOSED USE:** Allowing an additional

use of Commercial Indoor Recreation

**ACCESS TO PROPERTY:** Old 41 Highway and Marble Mill Road

**SIZE OF TRACT:** 10.069 acres

**DISTRICT:** 2

**PHYSICAL CHARACTERISTICS TO SITE:** Existing industrial

park, multiple buildings

**LAND LOT(S):** 940

**PARCEL(S):** 5

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 3

**CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** City of Marietta/ C W Matthews

**SOUTH:** City of Marietta/ Small Tract Industrial Users

**EAST:** HI/ TORCO Inc.

**WEST:** HI/ G E M Contractor Inc.

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

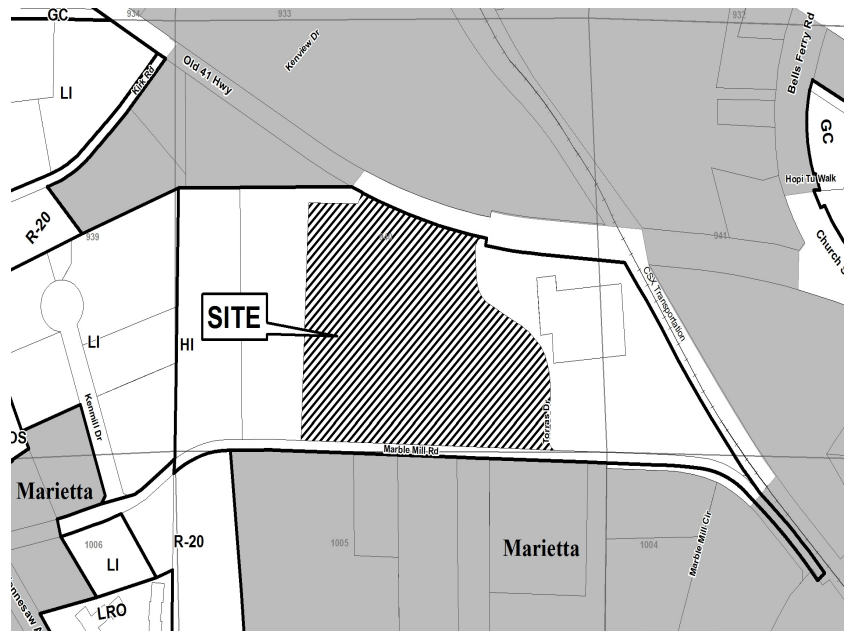
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

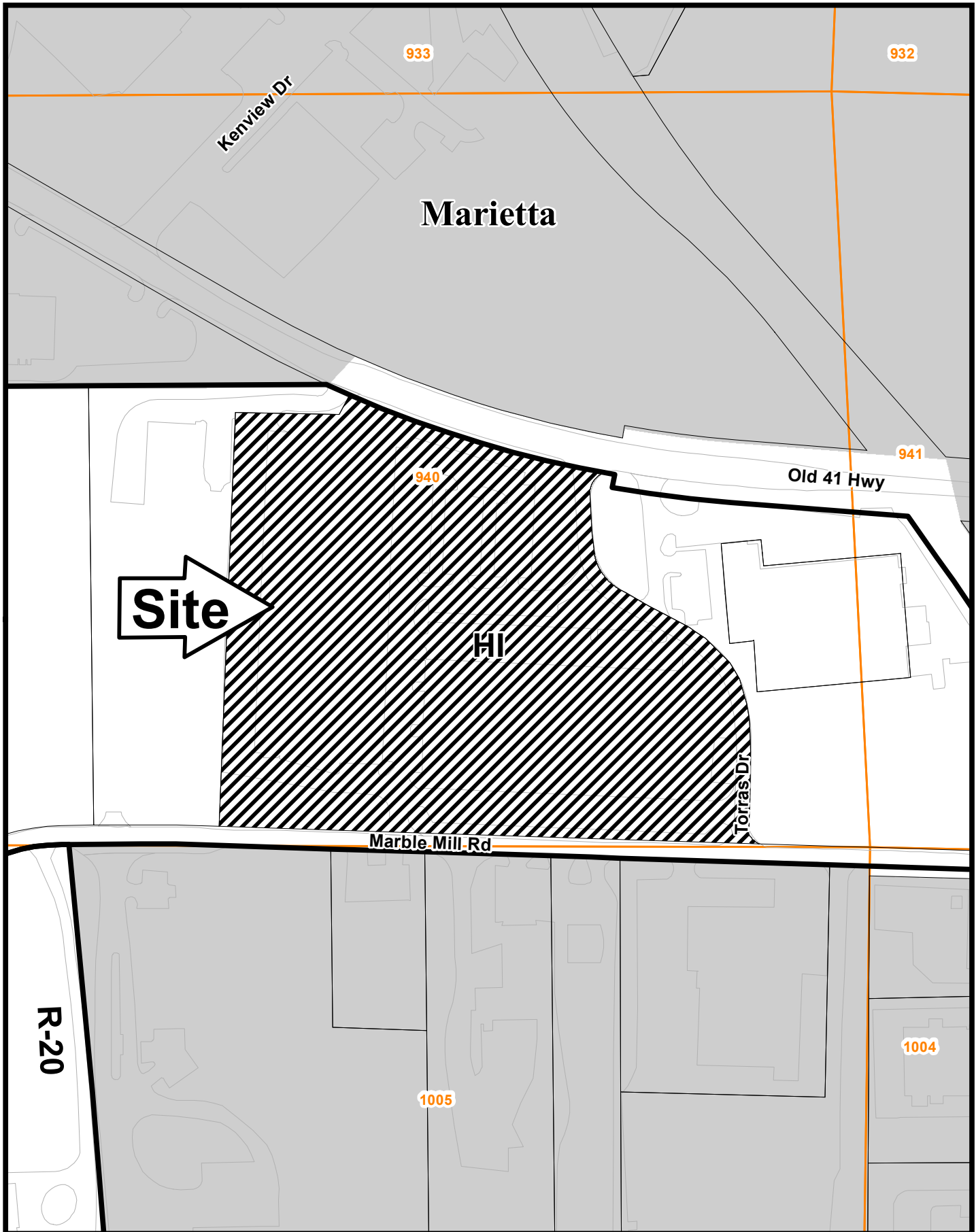
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

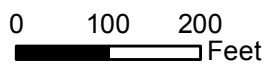
**STIPULATIONS:**



# Z-103



This map is provided for display and planning purposes only. It is not meant to be a legal description.



City Boundary  
Zoning Boundary

**APPLICANT:** Marc Simmons

**PETITION NO.:** Z-103

**PRESENT ZONING:** HI

**PETITION FOR:** HI with Stipulations

\*\*\*\*\*

**ZONING COMMENTS:**

**Staff Member Responsible:** Terry Martin, MPA

**Land Use Plan Recommendation:** IND- Industrial

**Proposed Number of Buildings:** 2, existing **Total Square Footage of Development:** existing

**F.A.R.:** existing **Square Footage/Acre:** existing

**Parking Spaces Required:** 30 **Parking Spaces Provided:** 100+

The applicant is seeking to rezone the subject site from its current zoning of HI heavy industrial district to HI heavy industrial district with the allowance of “commercial indoor recreation” as a permitted use in order to operate his business. The anticipated business is an “escape room” entertainment use.

No changes will be made to the site, only interior renovations to outfit the 6,000+ square foot space for the intended use. In fact, it is the property’s industrial-centric build out – open, warehouse type space - that has made it most attractive for the applicant’s intended use. The business will operate evenings and weekends and employ 10-15 people.

**Cemetery Preservation:**

No Comment.

\*\*\*\*\*

**FIRE COMMENTS:**

C/O: Plans must be submitted to the Cobb County Fire Marshal’s Office to initiate the Certificate of Occupancy process.

APPLICANT: Marc Simmons

PETITION NO.: Z-103

PRESENT ZONING: HI

PETITION FOR: HI with Stipulations

\*\*\*\*\*

**PLANNING COMMENTS:**

The applicant is requesting a rezoning from HI to HI with stipulations for the purpose of commercial indoor recreational uses. The 10.069 acre site is located on the south side of Old 41 Highway, west side of Torras Drive, north side of Marble Mill Road at 1349 Old 41 Highway, N.W.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary?  Yes  No  
If yes, has the city of Marietta been notified?  Yes  No / N/A

Comprehensive Plan

The parcel is within an Industrial (IND) future land use category, with HI zoning designation. The purpose of the IND category is to provide for areas that can support heavy industrial and manufacturing uses. Typical land uses for these areas include plants that convert raw materials into a finished product.

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

North: City of Marietta (across Old 41 Highway)  
East: Industrial (IND) (across Torras Drive)  
South: City of Marietta (across Marble Mill Road)  
West: Industrial (IND)

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines?  Yes  No  
If yes, design guidelines area \_\_\_\_\_  
Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone?  Yes  No  
The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone?  Yes  No

The Smyrna-Osborne Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

**APPLICANT:** Marc Simmons

**PETITION NO.:** Z-103

**PRESENT ZONING:** HI

**PETITION FOR:** HI with Stipulations

\*\*\*\*\*

**PLANNING COMMENTS:** **Continued**

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?  Yes  No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

For more information on incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?  
 Yes  No

Is this property within the Cumberland Special District #2 (ad valorem tax)?  
 Yes  No

Is this property within the Six Flags Special Service District?  
 Yes  No

APPLICANT Marc Simmons

PETITION NO. Z-103

PRESENT ZONING HI

PETITION FOR HI with stips

\*\*\*\*\*

**WATER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development:  Yes  No

Fire Flow Test Required:  Yes  No

Size / Location of Existing Water Main(s): City of Marietta service area

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

\*\*\*\*\*

**SEWER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin:  Yes  No

At Development:  Yes  No

Approximate Distance to Nearest Sewer: City of Marietta service area

Estimated Waste Generation (in G.P.D.): A D F= Peak=

Treatment Plant:

Plant Capacity:  Available  Not Available

Line Capacity:  Available  Not Available

Projected Plant Availability:  0 - 5 years  5 - 10 years  over 10 years

Drv Sewers Required:  Yes  No

Off-site Easements Required:  Yes\*  No \*If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required:  Yes  No

Letter of Allocation issued:  Yes  No

Septic Tank Recommended by this Department:  Yes  No

Subject to Health Department Approval:  Yes  No

Additional Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

**APPLICANT: Marc Simmons**

**PETITION NO.: Z-103**

**PRESENT ZONING: HI**

**PETITION FOR: HI w/ stips**

\*\*\*\*\*

<b>STORMWATER MANAGEMENT COMMENTS</b>
---------------------------------------

No comments.



**APPLICANT: Marc Simmons**

**PETITION NO.: Z-103**

**PRESENT ZONING: HI**

**PETITION FOR: HI with stipulations**

\*\*\*\*\*

**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Old 41 Highway	11,600	Major Collector	40 mph	Cobb County	80'
Torras Drive	N/A	Local	25 mph	Private	N/A
Marble Mill Road	N/A	Local	30 mph	Cobb County	60'

*Based on [2012] traffic counting data taken by Cobb County DOT for Old 41 Highway.*

**COMMENTS AND OBSERVATIONS**

Old 41 Highway is classified as a major collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Marble Mill Road is classified as a local and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the south side of Old 41 Highway, a minimum of 40' from the roadway centerline upon redevelopment.

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of Marble Mill Road, a minimum of 30' from the roadway centerline upon redevelopment.

Recommend curb, gutter, and sidewalk along all roadway frontages upon redevelopment.

## STAFF RECOMMENDATIONS

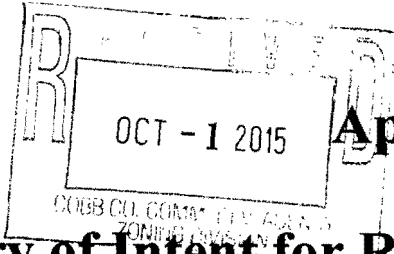
### Z-103 MARC SIMMONS

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. With no changes to the site itself, the interior outfit of the existing warehouse space will allow the proposed use of commercial indoor recreation.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The added use of commercial indoor recreation will operate during evening and weekend hours, off-hours from the complex's other users.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. The site is delineated as being within the IND industrial future land use category on the future land use map. The category seeks to provide areas for heavy industrial and manufacturing uses that are suitable for the community in terms of job skills required, linkages to other economic activities in the region, impact on the resources of the area, and future prospects for expansion and creation of higher-skill job opportunities. It is the site's warehouse facilities that has attracted the applicant, believing it to be perfect for the anticipated use.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The existing warehouse space will be outfitted to accommodate the applicant's anticipated "escape room" business. This type of business, an activity based "commercial indoor recreation" is not a permitted use within the HI heavy industrial district thus, prompting the current request. Operating during the evening and weekend hours, the use is not anticipated to conflict with other, existing users within the complex.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

- Allowance of "commercial indoor recreation use" as a permitted use within the HI heavy industrial district for this applicant only;
- Fire Department comments and recommendations;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation comments and recommendations; and
- Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

**The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**



Application No. Z-103

PC Hearing: Dec. 1, 2015  
BOC Hearing: Dec. 15, 2015

# Summary of Intent for Rezoning \*

.....  
**Part 1. Residential Rezoning Information (attach additional information if needed)**

- a) Proposed unit square-footage(s): N/A
  - b) Proposed building architecture: N/A
  - c) Proposed selling prices(s): N/A
  - d) List all requested variances: N/A
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

.....  
**Part 2. Non-residential Rezoning Information (attach additional information if needed)**

- a) Proposed use(s): Commercial Indoor Recreational Uses
  - b) Proposed building architecture: \_\_\_\_\_
  - c) Proposed hours/days of operation: \_\_\_\_\_
  - d) List all requested variances: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

.....  
**Part 3. Other Pertinent Information (List or attach additional information if needed)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

.....  
**Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?**  
 (Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

None known of at this time.

\*Applicant specifically reserves the right to amend any information set forth in this Summary of Intent for Rezoning, or any other portion of the Application for Rezoning, at any time during the rezoning process.

OCT - 1 2015

ZONING IMPACT STATEMENT

COMES NOW, MARC SIMMONS, and pursuant to § 134-121(a)(7) of the Cobb County Zoning Ordinance, files this his Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of uses, proposed development and existing zonings in an around the location of the Property, and in other areas of the County. The subject property is a developed property containing a myriad of uses, all of which are compatible with the proposed use.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties in that this low-intensity professional office use is proposed to be conducted within the existing residential structure.
- C. The subject property to be affected by the zoning proposal is limited in the uses which may be made of it and the market has not generated enough tenants for the existing permitted uses to keep it fully occupied. As such, as currently zoned the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. The existing limitation of uses is therefore a significant economic detriment to the owner of the subject property. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.
- E. The zoning proposal is not consistent with the uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.

OCT - 1 2015

- F. There is no substantial relationship between the prohibition against making indoor commercial recreation use of the property and the public health, safety and general welfare. Additionally, there are no established land use planning principles or political considerations which work against the zoning proposal.

Respectfully submitted, this the \_\_\_\_ day of October, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

JOEL L. LARKIN  
Attorney for Applicant  
Ga. Bar No. 438415